

## **REMARKS**

### **Summary of Telephone Conference with Examiners**

On 3 July 2003 a telephone conference was held between the attorney for the Applicant, and Examiners Sun and Barlow. In that conversation, differentiations between the Applicant's invention and the cited prior art were identified, and these differences are discussed below. In addition, the Examiners provided suggested additional invention limitations that may, in combination with other claim elements, result in patentable subject matter. Specifically, the examiners suggested that a limitation of "electronically" detecting, recording, or storing vacuum pressure data in real time is not apparently taught in the prior art. These limitations are now a part of the independent claims.

Further, the Examiners state that "electronically recording" includes recording data on fetal monitor trace paper. The Applicant committed to the Examiners to provide prior art identifying the use of trace paper, and the use of a fetal monitor in fetal delivery. Accordingly, the Applicant has enclosed with this Amendment and Remarks a copy of a monitor manual for a Hewlett-Packard fetal monitor (and has tabbed various references to trace paper). Accordingly, it is believed that the Applicant has addressed each issue raised by the Examiners in the Office Action of 16 June 2003, and in the telephone conference of 3 July 2003.

### **In the Claims**

The proposed claims differentiate the present invention from the cited prior art as discussed below.

### **Rejection Under 102 and 103 based on *Dimitriu***

The Examiner presently rejects independent claim 1 under 35 USC 102 as being anticipated by *Dimitriu*. Specifically, the Examiner cites column 5, lines 45-65 as a basis for the rejection. However, in column 5 *Dimitriu* is specifically discussing tension forces in the cable being pulled, not the vacuum forces. Vacuum forces are unrelated to tension forces. *Dimitriu*

does not teach, show or suggest recording a vacuum pressure as claimed by the applicant in claims 1, 7, and 19, which recite recording a vacuum pressure. Furthermore, there is no motivation in *Dimitriu* to monitor vacuum pressure, as *Dimitriu* does not even identify problems associated with vacuum pressures. In addition, *Dimitriu* cannot be said to teach electronically detecting and recording a vacuum pressure in real time as claimed by the applicant in amended claims 1, 7, and 19. Withdrawal of the objection to claims 1, 7, and 19 under 35 USC 102 and 103 based on *Dimitriu* are respectfully requested.

*Miller* is also cited by the Examiner as a basis for the rejection of various claims. However, *Miller* teaches monitoring a vacuum in a vacuum environment used to in the filed of wound treatment. As discussed in the telephone conference of 3 July 2003, such treatments are used in the field of wound treatment to force cell migration into wounds. However, the mere suggestion that one can use such a vacuum to treat a wound on a fetus does not motivate one to use such a device to deliver a fetus. In fact, the device of *Miller* could not possibly be used to deliver a fetus. Likewise, vacuum devices for fetal delivery are not used for wound treatment. Thus, it is not surprising that there is no motivation to combine *Miller* with *Dimitriu*.

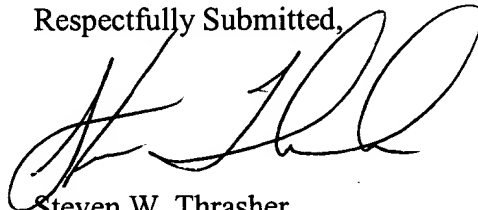
Thus, the use of vacuums in the field of wound treatment is very different that the use of vacuums in the field of fetal delivery. No matter how hard one searches, they never find a vacuum pump used for both fetal delivery and for wound treatment. The pressures are different, the pumps are different, and the goals of the use of the vacuum pressures are different. No matter how hard one searches, they will never find a device adapted to attach to a fetus used in conjunction with a wound treatment system since the combination would either ineffectively treat a wound, or produce insufficient pressures for fetal delivery. The Examiners indicated in the telephone conference of 3 July 2003 that *Miller* would be withdrawn as a prior art reference, and, accordingly, the Examiner is requested to withdraw *Miller* as prior art in the present case.

In addition, for the foregoing reasons, no combination of a fetal deliver system should be made with a wound treatment device. No matter how hard one looks, no such combination exist

in the prior art, ever. No matter how hard one looks, no one will find such a combination used in practice, anywhere. Nevertheless, the Applicant proposes amending claims 1, 7 and 19 to expressly state that the invention does not apply to wound treatment (see above) or anything other than fetal obstetrics. Accordingly, the Examiner is respectfully requested to withdraw any rejections based on *Miller*, alone or in combination with other alleged prior art.

It is now believed that claims 1, 7 and 19, and those that depend therefrom, are now in condition for allowance. In addition, since independent claims 1, 7 and 19 are now in condition for allowance it is noted that each dependent claim is also in condition for allowance, and thus allowance of each dependent claim is also requested. Thus, it is believed that all pending Claims are allowable. The Examiner is encouraged to contact the under signed attorney to resolve these matters by Examiners Amendment where possible.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'S. W. Thrasher', written over the typed name.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Please amend claims 1, 7, and 19 as indicated.

1. (Three-times Amended) A method of using a recording device that records a pressure in a vacuum device adapted for fetal obstetrics[, that is also not a silicon wafer processing device], the vacuum device enabled to couple to a fetus, comprising:

electronically detecting a pressure in the vacuum device, the vacuum device enabled to couple to a fetus;

electronically recording the pressure in real time [in the vacuum device]; and  
storing a record of the pressure.

7. (Three-times Amended) A method of using a recording device to record a pressure in a vacuum device adapted for fetal obstetrics[, that is also not a silicon wafer processing device], the vacuum device enabled to couple to a fetus, comprising:

placing the vacuum device on a fetus, the space between the fetus and the vacuum device having a pressure;

initiating a vacuum pressure in the suction device;

electronically detecting the vacuum pressure in the suction device; and

automatically recording the vacuum pressure in real time [in the suction device].

19. (Three-times Amended) A method of using [a] an electronic recording device to record a pressure in a vacuum device adapted for fetal obstetrics[, that is also not a silicon wafer processing device], the vacuum device enabled to couple to a fetus, comprising:

coupling the recording device to the vacuum device, the vacuum device enabled to couple to a fetus; and

electronically recording the pressure in real time so that a record may be produced therefrom.